

Patent Application No. 10/047,854

REMARKS

This Amendment is in response to the Office Action dated September 23, 2004. In the Office Action, claims 3-8 were rejected under 35 USC §103. Currently pending claims 3-8 are believed allowable, with claims 3 and 7 being independent claims.

OBJECTION TO THE SPECIFICATION:

The specification was objected to because it allegedly contains an embedded hyperlink and/or other form of browser-executable code. Office Action, paragraph 2.

Examiners are required to review patent applications to ensure that hyperlinks and other forms of browser-executable code, especially commercial site URLs, are not included in a patent application. MPEP 608.01. Examples of a hyperlink or a browser-executable code are a URL placed between these symbols "< >" and http:// followed by a URL address. *Id.* It is respectfully noted that inclusion of URLs is not prohibited by the USPTO, as long the URLs are not hyperlinks or in the form of browser-executable code.

Pages 2 and 13 of the present application contain URLs directing the reader to information that may be useful in reviewing the present application. The URLs are not placed between "< >" symbols or in other form of browser-executable code. Thus, the Applicant respectfully submits that the specification does not contain an embedded hyperlink and/or other form of browser-executable code. The Applicant further submits therefore that this objection is improper.

The specification was also objected to because of an "attempt to incorporate subject matter into this application by reference to a hyperlink on pages 2 and 13 of the specification." Office Action, paragraph 3.

The Applicant respectfully submits that there is no statement or suggestion in the specification that the subject matter referenced by the URLs on pages 2 and 13 is incorporated by reference in the application. Thus, the Applicant believes that this objection is also improper.

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CLAIM REJECTIONS UNDER 35 USC §103:

Claims 3, 4 and 6-8 were rejected under 35 USC §103 as obvious over U.S. Patent No. 6,577,976 to Hoff et al. (hereinafter "Hoff") in view of U.S. Patent No. 5,854,994 to Canada et al. (hereinafter "Canada"). Office Action, paragraph 5.

Claim 5 was rejected under 35 USC §103 as obvious over Hoff in view of Canada, and in further view of U.S. Patent No. 5,864,773 to Barna et al. (hereinafter "Barna"). Office Action, paragraph 6.

I. THE CITED DOCUMENTS DO NOT TEACH OR SUGGEST ALL THE CLAIM LIMITATIONS

A *prima facie* case for obviousness can only be made if the combined reference documents teach or suggest all the claim limitations. MPEP 2143. "All words in a claim must be considered in judging the patentability of that claim against the prior art." MPEP 2143.03 citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Claim 3

Claim 3 of the present Application recites, in part, "Two or more data sources for gathering parameter data." The Applicant respectfully submits that the Office Action provides no evidence that this claim limitation is taught or suggested in Huff or any of the other cited references.

Claim 3 also recites, "A data summarizer which fuses parameter data gathered by two or more data sources to create an abstract data parameter." Office Action points the estimator 212 of Huff as analogous to a data summarizer.

Hoff describes a method for using information from complementary sensors to calibrate sensor bias. Hoff, col. 3, lines 20-22. Without dwelling on the details of Hoff, the estimator 212 generates a system state estimate vector. Hoff, col. 7, lines 54-60. The Applicant respectfully submits that nowhere in Huff is there a teaching or suggestion that the estimator 212 "fuses parameter data gathered by two or more data sources to create an abstract data parameter," as recited in claim 3. Moreover, the Office Action provides no evidence of such a teaching or suggestion.

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Claim 3 further recites, "A progressive model, which takes as input abstract data parameters, and generates an output data model." The Applicant respectfully submits that the Office Action provides no evidence that this claim limitation is taught or suggested in Huff or any of the other cited references.

Claim 3 additionally recites, "Means, which takes as input the output data model and derives an optimized schedule for i. (i) subsequent gathering of data by the sensor subsystem and ii. (ii) subsequent transmission of model data to the base processing station . . . so as to maximize accuracy of a data model executed by the base station." The Applicant respectfully submits that the Office Action provides no evidence that these claim limitations are taught or suggested in Huff or any of the other cited references.

The Office Action mentions that Canada "discloses that wireless sensors should have dynamic data transmission schedules." The Applicant respectfully submits that Canada does not contain any discussion of "dynamic data transmission schedules." Moreover, claim 3 does not contain any discussion of dynamic data transmission schedules either.

For at least the reasons set forth above, a *prima facie* case of obviousness under 35 USC §103 for claim 3 has not been made. Furthermore, the Applicant respectfully submits that claim 3 is not obvious over Huff in view of Canada and earnestly solicits allowance of this claim.

Claims 4-6

If an independent claim is nonobvious under 35 USC §103, then any claim depending therefrom is nonobvious. MPEP 2143.03 citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claims 4-6 are dependent on and further limit claim 3. Since claim 3 is believed allowable, claims 4-6 are also believed allowable for at least the same reasons as claim 3.

Claim 7

Claim 7 of the present Application recites, in part, "Two or more data sources for gathering parameter data, at least one of the data sources being a sensor subsystem for generating model representing data

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gathered by two or more sensor subsystems." The Applicant respectfully submits that the Office Action provides no evidence that this claim element is taught or suggested in Huff or any of the other cited references.

Claim 7 also recites, "A data summarizer which fuses parameter data gathered by the two or more data sources to create an abstract data parameter." Office Action points the estimator 212 of Huff as analogous to a data summarizer.

Hoff describes a method for using information from complementary sensors to calibrate sensor bias. Hoff, col. 3, lines 20-22. Without dwelling on the details of Hoff, the estimator 212 generates a system state estimate vector. Hoff, col. 7, lines 54-60. The Applicant respectfully submits that nowhere in Huff is there a teaching or suggestion that the estimator 212 "fuses parameter data gathered by the two or more data sources to create an abstract data parameter," as recited in claim 7. Moreover, the Office Action provides no evidence of such a teaching or suggestion.

Claim 7 additionally recites, "A progressive model which takes as input abstract data parameters and generates an output data model upon which a decision maker can base a decision." The Applicant respectfully submits that the Office Action provides no evidence that these claim limitations are taught or suggested in Huff or any of the other cited references.

The Office Action mentions that Canada "discloses that wireless sensors should have dynamic data transmission schedules." The Applicant respectfully submits that Canada does not contain any discussion of "dynamic data transmission schedules." Moreover, claim 7 does not contain any discussion of dynamic data transmission schedules either.

For at least the reasons set forth above, a *prima facie* case of obviousness under 35 USC §103 for claim 7 has not been made. Furthermore, the Applicant respectfully submits that claim 7 is not obvious over Huff in view of Canada and earnestly solicits allowance of this claim.

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Claim 8

If an independent claim is nonobvious under 35 USC §103, then any claim depending therefrom is nonobvious. MPEP 2143.03 citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claim 8 is dependent on and further limits claim 7. Since claim 7 is believed allowable, claim 8 is also believed allowable for at least the same reasons as claim 7.

II. THERE IS NO MOTIVATION OR SUGGESTION TO MODIFY OR COMBINE HOFF AND CANADA

In making a *prima facie* case of obviousness, there must be some suggestion or motivation to modify the reference or to combine reference teachings. MPEP 2143. The suggestion or motivation to modify the references or combine the reference teachings must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP 2143.01. Broad conclusion that the modifications of the prior art to meet the claimed invention would have been " 'well within the ordinary skill of the art at the time the claimed invention was made' " because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. MPEP 2143.01 citing *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993).

In combining the teaching of Hoff and Canada, the Office Action states, "Because the disclosures of Hoff et al. and Canada et al. are within the art of sensor monitoring, because Canada et al. discloses that one should dynamically schedule data transmission times" Office Action, paragraph 3.

The Applicant respectfully submits that the Office Action provides no evidence in either Hoff or Canada of the desirability to combine teachings of Canada with the teachings of Hoff. Specifically, there is no discussion in Hoff as to the desirability of dynamically scheduling data transmission times. Furthermore, Canada does not provide any motivation to combine its teachings with the sensor calibration method of Hoff.

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For at least this reason, a *prima facie* case of obviousness under 35 USC §103 for claims 3, 4 and 6-8 has not been made. As such, the Applicant earnestly solicits allowance of claims 3, 4 and 6-8 by the Examiner. In addition, claim 5 is dependent on and further limits claim 3. Since claim 3 is allowable over the cited documents, claim 5 is also allowable for at least the same reasons as claim 3.


CONCLUSION

In view of the forgoing remarks, it is respectfully submitted that this case is now in condition for allowance and such action is respectfully requested. If any points remain at issue that the Examiner feels could best be resolved by a telephone interview, the Examiner is urged to contact the attorney below.

No fee is believed due with this Amendment, however, should a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Respectfully submitted,

Dated: December 23, 2004


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MARKUP SHEET

Please replace the paragraph starting at page 1, line 4 of the Application with the following paragraph:

This application claims the benefit of U.S. Provisional Patent Application Serial Nos. 60/263,026 and 60/263,039, each filed January 19, 2001, and each of which is incorporated herein by reference. This application is related to U.S. Patent Application Serial No. 10/047,863 (IBM Docket No. YOR920010077), filed contemporaneously herewith and incorporated herein by reference.